

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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Under the authority of 24 CFR 91.505, California is submitting this Substantial Amendment to its 2011-2012 Action Plan pertaining to the State's CDBG Program Method of Distribution.

## **Citizen Participation**

In early 2011 the State held six roundtable discussions regarding the initial changes to the CDBG Program's Method of Distribution in Coachella on February 22, Sacramento on February 24, Anderson on March 1, Fort Bragg and Crescent City each on March 2, Tulare County (Visalia) on March 8 and Monterey County (Salinas) on March 9. Additionally, the State has been meeting with the CDBG Community Development and Economic Development Advisory Committees. Those meetings were all held in Sacramento at the State Department of Housing and Community Development on December 9, 2010, and on February 17, April 26, June 2, August 18 and November 8, 2011. As the plan was taking clearer shape, an email with the proposed changes to the current Method of Distribution also went out via the Department's Listserv tool to all the CDBG Interested Parties. The Department made clear that we were inviting comments. Comments from 10 jurisdictions were received. All comments were considered before finalizing the new Method of Distribution. All the comments received were written versions of comments that had already been raised and addressed during the Advisory Committee meetings noted above. Additionally, the Department published a public notice stating the new Method of Distribution within the Department's Regulation Change documents, in the California Regulatory Notice Register on December 23, 2011 as well as posting the public notice and corresponding information on the Department's website, and sending the Public Notice to our Interested Parties list via the Department's mailing list service. A public comment period was held from December 23, 2011 to February 6, 2012. One comment was received, however the comment was to request that an eligibility criterion not be included in regulation, and rather be listed only in the NOFA. All eligibility criteria must be stated in regulation. Lastly, three public hearings will be held, where the Department will take written comments: March 16, 2012 from 10:00am – 1:00pm at 1800 Third Street, Room 470, Sacramento, CA; March 20, 2012 from 1:00pm – 4:00pm in Tulare County at Government Plaza, RMA Main Conference Room, 5961 S. Mooney Blvd., Visalia, CA; and March 28, 2012 from 1:00pm – 4:00pm at the Holtville City Hall, City Council Chamber, 121 W. Fifth Street, Holtville, CA.

## **CDBG Method of Distribution**

Community development and economic development needs vary widely across the state. The extreme diversity in the available infrastructure and housing, age of housing stock, overall range in population, the need for community development and economic development funding is high. Because of the limited availability of resources and the extent of community and economic development needs, the Department has developed

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

---

a method to address priority needs and to distribute CDBG Program funds to eligible entities for the activities expected to be carried out during the program year.

For funding years 2011-2012 and beyond, the State is updating its Method of Distribution by implementing an annual schedule for funding. The State will release a Notice of Funding Availability the second week of January, annually, with award letters being distributed by late July, and contracts being distributed by late September. The NOFA will announce all funding maximums, activity maximums and all final scoring criteria. All of the activities awarded each year, other than the Economic Development Over-the-Counter component (ED OTC), will be included in one contract.

The ED OTC will also be announced in the NOFA, and will include open and close dates. However, awards for this component will have a separate contract given the size, scope, and open application process for these projects.

## **CDBG Program Categories**

The basic categories for local community development are housing, public facilities, public improvements, public services and planning. For economic development, funding may be obtained under the Enterprise Fund for business assistance or microenterprise activities; or for larger scale economic development projects, under the Over-the-Counter application process. Some of the activities that can be carried out with CDBG funds include acquiring real property; rehabilitating residential and nonresidential properties (including special facilities for persons with disabilities); constructing new, affordable housing (as "housing of last resort" only); providing public facilities and improvements such as water, sewer or solid waste facilities, or senior citizen centers; providing public services such as child care programs, senior programs and food banks; and assisting for-profit businesses to promote economic development activities that will result in creation or retention of jobs.

State Health and Safety Code 50828 requires that not less than fifty-one percent (51%) of all CDBG funds be made available for the improvement of housing opportunities for low or moderate income families and persons, including but not limited to the construction of infrastructure.

- **Economic Development:** Health and Safety Code 50827 stipulates that thirty percent (30%) of all CDBG funds must be made available for Economic Development activities. California's CDBG Economic Development Program is designed to stimulate economic development activity by assisting the private sector in order to create or retain jobs for low- and moderate-income persons. CDBG funds are intended to be used in situations where a funding gap exists or alternative sources of public and private financing are not adequate. These funds are intended

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

---

to complement conventional business financing and those of other federal programs such as the U.S. Department of Commerce Economic Development Administration (EDA) and U.S. Small Business Administration (SBA).

The CDBG Economic Development Program provides grants to local governments to assist businesses by making appropriate long-term, fixed-rate financing available to them at reasonable interest rates with flexible terms. Typical eligible activities that fall within the CDBG economic development category include: land acquisition; public facilities, infrastructure (water and sewer lines, sidewalks, access roads, etc.), and other improvements in support of economic development; loans for acquiring, constructing, rehabilitating, or installing commercial and industrial buildings, facilities, or for working capital:

California offers these grants under two allocations:

## Enterprise Fund

This allocation is comprised of two different programs: 1) business financial assistance program; and 2) microenterprise (technical assistance, financial assistance, and support services) program. Under the business financial assistance program, grantees make commercial loans to eligible businesses to accommodate expansion or retention projects which create or retain jobs and jobs for low income persons. Microenterprise program activities provide technical assistance, financial assistance and support services to eligible micro businesses (owners are low income and business has five or fewer employees, including the owners).

## Over The Counter

This allocation funds commercial projects which meet CDBG regulatory requirements and underwriting standards. Department staff will co-underwrite the project with the grantee, grantee underwriter and business. Eligible project activities can be: offsite public infrastructure, purchase of real property, new construction or rehabilitation of existing buildings or onsite improvements on private property for business, tenant commercial improvements, furniture fixtures and equipment (FF&E), operating costs and inventory. Like business assistance program projects, the OTC project must meet all CDBG regulatory requirements as well as commercial and HUD underwriting standards. All projects under this allocation, above \$500,000 loan amount, are presented to the EDAC for recommendation to the Director. The minimum loan amount under this activity is \$300,000.

As noted above, the State will include the Enterprise Fund allocation in the annual NOFA to be released the second week of January each year. The ED

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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OTC allocation will also be included in the annual NOFA, however this allocation will be open for project applications for 15 months after release of the NOFA in the second week of January.

## Section 108 Loan Guarantees

California Code of Regulations Section 7062.3 provides State regulatory authority to participate in facilitating Section 108 Loan Guarantees. The Department is currently reviewing its options in providing this program for large-scale economic development projects. Since the program provides for applications being reviewed on an over-the-counter basis, interested parties are instructed to contact their Economic Development Representative for more information.

- Community Development (CD) Allocation: This component of the program funds a variety of CDBG-eligible activities. States may fund up to 65 different activities under the CDBG Program. Primary activities include housing rehabilitation, homeownership assistance, public facilities, public improvements, and public services; and new housing construction in very limited circumstances. The Department will include all Community Development activities in the annual NOFA to be released the second week of January each year.

## Housing

CDBG housing assistance may consist of one or more activities designed to address the affordable housing needs of low and moderate income households. The principle activities within a housing must clearly be designed to address needs appropriate to the category and be pertinent to a national or state objective of the CDBG program.

CDBG funds are often used to make low or no-interest loans or grants to low- and moderate-income families to allow them to rehabilitate homes in substandard condition. CDBG rehabilitation projects focus on bringing housing up to basic code standards by addressing structural deficiencies, improving electrical systems, and addressing issues related to asbestos and lead-based paint. In light of increasing energy costs, communities are encouraged to use CDBG funds to undertake energy conservation for housing owned or occupied by low- or moderate-income households.

CDBG funds can also be used to expand homeownership opportunities for low- and moderate-income persons by paying closing costs, providing up to 50% of any down payment required, subsidizing interest rates, and financing the acquisition of housing. Many California communities are experiencing shortages of affordable housing; CDBG funds can help finance or subsidize the construction of new, permanent residential units where the CDBG funds will be

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

---

used by a local nonprofit organization. Local governments can directly undertake affordable housing projects that can include site improvements to publicly owned land or land owned by a nonprofit organization to be used for new housing and converting an existing non-residential structure (such as a former hospital) to residential use.

## Public Facilities and Public Improvements

CDBG public facility and public improvement projects may consist of one or more activities designed to resolve a community development need associated with the reconstruction or substantial renovation of an existing public facility or infrastructure system, or construction of an entirely new public facility or infrastructure system. The principle activities must clearly be designed to address needs appropriate to the category and be pertinent to a national objective of the CDBG program.

Public facility and public improvement activities are designed to assist general-purpose local governments with CDBG funds that can be used to upgrade or construct or rehabilitate facilities designed for use predominately by persons of low- or moderate-income such as senior citizen centers, Head Start centers, health centers, cooling centers, or fire stations as well as, water and sewer systems, installing curbs, gutters and street lights. Activities may also include direct assistance to low- and moderate-income families to pay special assessments (Note: this activity should be discussed with State staff before undertaking) or "laterals" from the public improvements, such as connection to public water and sewer systems. Laterals, however, are limited to Low Mod households in conjunction with a housing rehabilitation program

Construction of transitional (temporary) or short-term housing is eligible under the public facilities category, rather than under the housing category. Short-term residential facilities include homeless shelters and shelters or centers for abused or runaway youth and victims of domestic violence. This would also include transitional housing. The change of category from housing to public facility, beginning in 2008, was primarily due to the unique services provided with short-term housing. Short-term residential facilities typically have specific requirements and provide unique services that differentiate them from other housing projects, such as those providing homeowner rehabilitation, multi-family construction, or first-time homebuyer assistance. The clientele served by short-term residential facilities must typically meet very specific criteria and follow specific treatment programs. Because the project focus is on the provision of a public service (as opposed to long-term, permanent housing), it is appropriate to rank these types of facilities under the public facility category.

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

Public Services

In addition to the services noted above, CDBG regulations allow the use of grant funds for a wide range of public service activities, including, but not limited to:

Employment services (e.g., job training); Crime prevention and public safety; Childcare; Health services; Substance abuse services (e.g., counseling and treatment); Fair housing counseling; Education programs; Energy conservation; Services for senior citizens; Services for homeless persons; Services to seniors; and Recreational services.

CDBG funds may be used to pay for labor, supplies, and material as well as to operate and/or maintain the portion of a facility in which the public service is located. This includes the lease of a facility, equipment, and other property needed for the public service.

To utilize CDBG funds for a public service, the service must be either:

A new service; or

A quantifiable increase in the level of an existing service

New Construction

This is only allowed in California's CDBG Program under the last resort provisions of the URA (24 CFR Part 42, subpart I). This is housing that the grantee has determined must be constructed in order to provide suitable replacement housing for persons to be displaced by a contemplated CDBG project, subject to the Uniform Act, and where the project is prevented from proceeding because the required replacement housing is not available otherwise.

- PTA: The CDBG Program is able to play a unique role in assisting California's non-entitlement communities because of its ability to offer planning grants to local governments. Planning grant funds are used to assist local governments in a wide variety of long-term planning-related activities including but not limited to: preparing or updating community growth policies, community needs assessments, capital improvement plans, housing studies, and preliminary architectural or engineering plans related to public facility and housing activities.

The Department makes this funding available through a single-funding cycle announced annually by NOFA. Funding decisions are made on a first-come, first-served basis, based on eligibility threshold criteria. In the event more applications are received at the same time than can be funded, a tie-breaker process, as noted below in the Scoring section, will be used to determine who will be awarded funding. The Department will include all PTA activities in the annual NOFA to be released the second week of January each year.

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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- Native American: Health and Safety Code 50831 requires that 1.25% of the State's CDBG allocation be set aside for non-federally recognized Native American Tribes. Under the Native American set aside, all housing and housing related activities are available under this allocation. The Department will make the Native American allocation available for competitive award in the annual NOFA to be released the second week of January each year.
- Colonia: This component of the CDBG Program provides direct community development benefits to Colonia located in the non-metropolitan border region. All cities and counties eligible under the State CDBG Program which contain Colonia as defined in Section 916 (e)(1) of the National Affordable Housing Act of 1990 may qualify.

A Colonia is defined as a distressed, community within 150 miles of the California-Mexico border. There are distinct activities "of greatest need" that may be applied for under this set aside. They include addressing lack of a potable drinking water system, lack of adequate sewage system, and lack of decent, safe and sanitary housing. The amount applied for under the Colonia Allocation does not count against any funding or activity limits for the CDBG CD and ED Allocations. The Department will make the Colonia allocation available for competitive award in the annual NOFA to be released the second week of January each year

## **Funding**

### **Funding Structure**

Funds will be distributed pursuant to Code of Federal Regulations (CFR) Title 24, Part 570, and the California Code of Regulations, Title 25 Division 1, Chapter 7, Subchapter 2, Sections 7056, 7058, 7060, 7062, 7062.1, 7076, and 7078. Proposed regulation changes to these sections allow the Department to announce all pertinent application and funding information in one all-encompassing Notice of Funding Availability (NOFA). The NOFA will include the entire annual CDBG allocation from HUD for awards for Community Development (General) activities, Economic Development Enterprise Fund activities, Colonia activities, Native American activities and Planning and Technical Assistance grants. The NOFA will announce all funding maximums, activity maximums and all scoring criteria. All of the activities awarded each year in the categories noted above will be included in one contract.

The Over-the-Counter component of the Economic Development allocation (ED OTC) will also be announced in the NOFA, and will include open and close dates. However, awards for this component will have a separate contract given the size and scope of these projects.

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

---

## Funding Allocation

The State of California's 2011-12 CDBG allocation from HUD is anticipated to be \$39,661,491. Following are the anticipated allocations of funds by program area in 2011-12: After removing allowable administration costs, the total amount available for Local Assistance is estimated to be approximately \$34,500,000. However, for funding years 2011-2012 and 2012-2013 the State will make available 50% of the 2012-2013 allocation, which is estimated to add another \$14 million to the available allocation, which will allow the Department to make available approximately \$48,500,000 for Local Assistance in this funding round.

## Economic Development (ED)

California Health and Safety Code 50827 and Title 25 of the California Code of Regulations (CCR) Section 7062.1 require the Department to set aside 30 percent of the annual federal CDBG award for ED activities. The full 30 percent set aside for ED is expected to be \$14,000,000

The split between the EF and the OTC Allocation will be approximately 70% / 30% respectively. This amount reflects \$1,000,000 being set aside for ED-PTA activities, as noted below.

## Community Development (CD)

The CD Allocation amount is the balance of funds remaining after subtracting out all the different allocations (Economic Development, Planning, Native American, Colonia) and state allowed administration costs from HUD's annual allocation to the State. For Fiscal Year 2011-12, this is estimated to be \$29,300,000

## Colonia

Section 916 of the National Affordable Housing Act of 1990, as amended, established an annual set-aside for activities benefiting the residents of Colonias. In accordance with direction from HUD, the State will set aside 5 percent of the allocation, an estimated \$2,500,000 for Colonia activities in Fiscal Year 2011-12.

## Native American

Pursuant to Health & Safety Code Section 50831 and Title 25 CCR 7062, the State annually sets aside 1.25 percent of its CDBG award for grants to non-federally recognized tribes and Rancherias. This amount is expected to be approximately \$630,000 for Fiscal Year 2011-12.



# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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## Planning and Technical Assistance

For Fiscal Year 2011-12, the Department anticipates this amount will be \$1,000,000 for Community Development PTA grants, and also approximately \$1,000,000 for Economic Development PTA grants, for a total of \$2,000,000 for all PTA grants.

## Funding Sources

In addition to the annual allocation the State receives from HUD, the Department will roll into the amount available for award any **unused, un-awarded, returned, and disencumbered** funds.

**Un-awarded funds** are funds that the State did not award in the previous funding cycle. It is important to note, however, that in funding years 2012 and 2013, the State intends to award 150% of its expected CDBG allocation from HUD so that it may allow as much time for jurisdictional expenditure within the contract period as possible.

**Returned funds** are funds that the jurisdiction returned to the State due to ineligible activity funding.

**Disencumbered funds** are funds that the State removed from awarded contracts which were still in the contract at the end of the contract period.

## Other Funding Considerations

**Program Income** - All program income (PI) generated by CDBG funds shall remain at the local jurisdiction, pursuant to 25 CCR Section 7104, which details the State CDBG program requirements for program income. PI funds repaid from activities funded under this NOFA are considered CDBG PI and must be tracked and reported as such by the grantee's fiscal staff.

## ***Eligibility Criteria***

Under this new Method of Distribution, beginning with funding year 2011-2012 California is implementing eligibility criteria as the basis for a jurisdiction being permitted to submit an application.

The criteria for this funding round are as follows:

Pursuant to 25 CCR, Section 7060, in order to be eligible to submit an application for funding, an applicant shall have met the following requirements at the time of

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

application submittal:

- a) ***City or County must be a Non-Entitlement Jurisdiction or must not currently be party to an Urban County Agreement or participate in or be eligible to participate in the HUD administered CDBG Entitlement Program.***
- b) ***The applicant shall submit all the application information required in 25 CCR, Sections, 7062.1, 7070 as applicable for the activities and funding allocations being applied for.***
- c) ***The applicant must demonstrate to the satisfaction of the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report.***
- d) ***Pursuant to 25 CCR Section 7080, applications must be in compliance with federal CDBG Public Participation regulations to be eligible for funding.***
- e) ***The application must have complied with all the requirements listed in Health and Safety Code Section 50830, regarding Housing Element law.***  
Pursuant to the law, CDBG will not reject an application based on either the content of the housing element or the Department's findings on the element, except as may otherwise be provided in Section 50830 of the Health and Safety Code. The determination of compliance will be made by the Department's Housing Policy Division.

However, in the 2012-2013 funding round, the Department will implement an additional criterion known as the "50% Rule." With the proposed regulation changes, beginning with next year's NOFA (for Fiscal Year 2013-14), an applicant with one or more open CDBG grant agreements issued pursuant to the 2012 NOFA and executed in 2012 or later, for which the expenditure deadline established in the grant agreement(s) has not yet passed, shall be ineligible to apply for any additional CDBG funds unless the applicant has expended at least fifty percent (50%) of all CDBG funds awarded in 2012 and later. The requirements of this proposed regulation do not apply to ED OTC contracts. This is known as "The 50% Rule." Simply put, if a jurisdiction has not yet expended 50% of **all** the funds awarded through all of its open contracts (other than ED OTC), the jurisdiction is not eligible to apply for more funds. This includes all activities in a contract, from any and all Allocations.

**Application Review & Award Amounts**

CDBG funds are awarded by the Department, primarily through a competitive process, to non-entitlement local governments which do not receive formula CDBG grants

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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directly from HUD. Applications for Community Development (General), Economic Development Enterprise Fund, Planning and Technical Assistance, Native American and Colonia activities are evaluated according to the criteria designated here and announced in the NOFA and are ranked according to the total number of points received.

In the event there are insufficient funds to fund an applicant's whole activity, the applicant may be offered the amount of funds available, provided it is sufficient to complete the activity.

## **Scoring**

New in 2012, all activities applied for will be rated and ranked against like-kind activities. Thus, housing activity applications will only be rated and ranked against other housing activity applications; Public Facility activity applications will only compete against other Public Facility activity applications, and so on.

The process of scoring includes the following:

- Points will be awarded in four main categories: Need, Readiness, Jurisdictional Capacity/Past Performance, and beginning with the 2013 NOFA, State Objective points.
- Each category will be applied to all activities, although the type and weighting of the criteria within each category may differ for each activity.
- Summary information about scoring is below and detailed Scoring Sheets can be found on the California Housing and Community Development Website at this link: [http://www.hcd.ca.gov/fa/cdbg/funds/docs/NOFAs/APPENDIX\\_U-ScoringDetails.pdf](http://www.hcd.ca.gov/fa/cdbg/funds/docs/NOFAs/APPENDIX_U-ScoringDetails.pdf)

## **Community Development and Economic Development Enterprise Fund**

Scoring will be achieved by breaking down the application for all activities (except ED OTC) into four main categories. These include:

**Need** – Activity applications will be evaluated to determine the extent to which the proposed activity meets a need and the seriousness of the problem or need. Any activity that addresses documented public health and safety hazards, regardless of National Objective, will receive more weight in the scoring process. Benefit to Low- and Moderate-Income persons will be taken into consideration in this category as well.

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

**Readiness** – Activity applications will be scored on the extent to which they are “shovel ready” or ready to implement with local government approved planning, resolutions, permits, and the like. For projects, this will include an evaluation of feasibility in terms of funding-in-place to complete the project and for ED applications, feasibility in terms of profitability for continuation of the funded project or business.

**Capacity** - Activity applications will be scored on the jurisdiction's capacity to implement the proposed activity, as demonstrated by performance and program operator experience.

**State Objectives** – In the 2011-2012 funding round, State Objective points will not be applicable. However, beginning with the 2012-2013 funding round, State Objectives may apply, and would consist of objectives determined by the State to be of increased importance. Some examples of possible criteria are Capacity Building Points which are points for unfunded eligible applications from the previous NOFA; documentation of the applicant's plan to Affirmatively Further Fair Housing and removal of any impediments to Fair Housing; and for ED activities, existence of an adverse economic event and/or technical assistance in concert with business assistance loans and microenterprise loans.

Thus the total available points for all activities in 2011-2012 funding year will be 900. All subsequent funding years are anticipated to have a total point scale of 1000.

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***ECONOMIC DEVELOPMENT – ENTERPRISE FUND***

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**Need/Benefit: (Up to 400 Points) –**

Need (up to 350 points out of 400) - includes point accumulation for unemployment percentage and market analysis.

Benefit (up to 50 points out of 400) includes point accumulation for poverty percentage.

**Readiness: (Up to 300 Points) –**

Readiness includes point accumulation for program description, description of program operators, and program operator status (what their role will be).

**Capacity/Performance: (Up to 200 Points) –**

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy and cooperation/compliance in clearing audit findings.

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

**State Objectives: (Up to 100 Points) – (beginning with the 2013 NOFA)**

State Objectives include point accumulation for existence of an adverse economic event and for jurisdictions that provide technical assistance in concert with business assistance loans and microenterprise loans.

***COMMUNITY DEVELOPMENT – (General)***

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***HOUSING REHAB (HR) and HOMEOWNERSHIP ASSISTANCE (HA)***

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**Need/Benefit: (Up to 400 Points) –**

Need (up to 250 points out of 400) includes point accumulation for overcrowding (for both HR and HA) and home ownership rate for HA or age of housing for HR.

Benefit (up to 150 points out of 400) includes point accumulation for low-mod percentage (service area only) and poverty percentage (jurisdiction-wide only). The applicant pool will set the range of points for Low-Mod & Poverty.

**Readiness: (Up to 300 Points) –**

Readiness includes point accumulation for activity specific operator experience, adopted program guidelines, and waiting list of pre-qualified applicants.

**Capacity/Performance: (Up to 200 Points) –**

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings

**State Objectives: (Up to 100 Points) – (beginning with the 2013 NOFA)**

State Objectives include point accumulation for capacity building, documentation of the applicant's plan to Affirmatively Further Fair Housing and removal of any impediments to Fair Housing, creation of permanent housing for the homeless through multi-family acquisition with or without rehab, low new housing starts and HA for low/mod buyers of foreclosed/abandon properties.

***MULTI-FAMILY HOUSING ACQUISITION, REHABILITATION OR  
ACQUISITION AND REHABILITATION***

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*NOTE: Multi-Family Housing projects may not be included in a Housing Combo program. MFH Activities may include no more than one project.*

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

**Need/Benefit: (Up to 400 Points) –**

**Need:** (up to 250 points out of 400) includes point accumulation for overcrowding and rental vacancy rate.

**Benefit:** (up to 150 points out of 400) includes point accumulation for low-mod percentage (Cities: jurisdiction-wide only / Counties: jurisdiction or target area) and poverty percentage.

**Readiness: (Up to 300 Points) –**

Readiness includes point accumulation for activity specific operator experience, all funding in place, and site control.

**Capacity/Performance: (Up to 200 Points) –**

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

**State Objectives: (Up to 100 Points) – (beginning with the 2013 NOFA)**

State Objectives include point accumulation for capacity building, documentation of the applicant's plan to Affirmatively Further Fair Housing and removal of any impediments to Fair Housing, creation of permanent housing for the homeless through multi-family acquisition with or without rehab, low new housing starts and HA for low/mod buyers of foreclosed/abandon properties.

***PUBLIC IMPROVEMENTS AND PUBLIC IMPROVEMENTS IN SUPPORT OF HOUSING NEW CONSTRUCTION***

*Note: Scoring will be on a sliding scale like previous years. Cease & Desist or Boil Water Order gets full points. See "Scoring Guidelines for Public Improvements."*

**Need/Benefit: (Up to 400 Points) –**

**Need:** up to 250 points out of 400 -

- Public Improvements: includes points for health and safety threat and
- Public Improvements in Support of Housing New Construction: includes condition of approval for the project, and renter overpayment, vacancy rate, overcrowding, and Council Of Governments data (Regional Housing Needs Assessment).

**Benefit:** (up to 150 points out of 400) –

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

*Note: The applicant pool will set the point range for both low-mod percentage and poverty percentage.*

- Public Improvements: includes point accumulation for low-mod percentage for either the jurisdiction-wide or target area, and poverty percentage, jurisdiction-wide.
- Public Improvements in Support of Housing New Construction: includes point accumulation for jurisdiction-wide low-mod percentage and poverty percentage.

**Readiness: (Up to 300 Points) –**

Readiness includes point accumulation for activity specific operator experience OR experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding in place.

**Capacity/Performance: (Up to 200 Points) –**

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

**State Objectives: (Up to 100 Points) – (beginning with 2013 NOFA)**

State Objectives include point accumulation for Transit Oriented Development or In-Fill projects as well as possible points that allow for (1) balancing of low-mod percentages between Public Improvements and Public Improvements in Support of Housing New Construction; or (2) allow points for Public Improvements projects to balance the Need scores of projects without a Cease & Desist order or Boil Water Order.

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**PUBLIC FACILITIES**

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**Need/Benefit: (Up to 400 Points) –**

Need (up to 300 points out of 400) includes point accumulation for severity of problem, extent of solution and third party documentation supporting both.

Benefit: (up to 100 points out of 400) includes point accumulation for low-mod percentage in the service area, and poverty percentage, jurisdiction-wide.

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

**Readiness: (Up to 300 Points) –**

Readiness includes point accumulation for activity specific operator experience OR experienced in-house staff ready to start the procurement process, project approval status, site control, and all funding in place.

**Capacity/Performance: (Up to 200 Points) –**

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing audit findings.

**State Objectives: (Up to 100 Points) – (beginning with the 2013 NOFA)**

State Objectives include point accumulation for capacity building points. The Department is also seeking additional suggestions for State Objective points under this activity.

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***PUBLIC SERVICES***

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**Need/Benefit: (Up to 400 Points) –**

Need (up to 300 points out of 400) includes point accumulation for severity of problem, extent of solution and third party documentation supporting both.

Benefit: (up to 100 points out of 400) includes point accumulation for low-mod percentage in the service area and poverty percentage, jurisdiction-wide.

**Readiness: (Up to 300 Points) –**

Readiness includes point accumulation for operator experience/program readiness, and site control of facility for service OR means to conduct the service..

**Capacity/Performance: (Up to 200 Points) –**

Capacity/Performance includes point accumulation for timely clearance of special conditions, jurisdictional capacity, report timeliness and accuracy, and cooperation/compliance in clearing monitoring and/or audit findings.

**State Objectives: (Up to 100 Points) – (beginning with 2012-2013 FY)**

State Objectives include point accumulation for capacity building and bonus points for any of the following services: Job Training with Job Placement, Fair Housing Counseling or Homelessness Prevention.



# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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Again, very important to note that a maximum score of 900 points will be available under the 2012 NOFA and 1000 points will be available under the 2013 NOFA and beyond.

In some cases, specific criteria will be scored in an "all or nothing" manner. That is, either a jurisdiction can prove the point with required documentation, or it can't, and will be awarded full points for the criteria, or no points for the criteria.

However, in other cases, the applicant pool will set the range of points for specific criteria. That is, some criteria scores will be prorated among all applications for an activity. The application awarded the highest score for the particular criteria will receive full points for that criterion. The other applications will be ranked in descending order and awarded points on a proportional descending scale from full points to zero points for that specific criteria.

## Documentation and Scoring of Need for Activity

The Need category has 400 points and will require documentation to support the jurisdiction's reasoning for applying for a specific activity. The activity must be proposed to alleviate a serious need or threat to the health and safety of the residents of the jurisdiction. The annual application package will include a list of typical activities and a description of how to document need for the activity.

## Documentation and Scoring for Readiness to Proceed

To document readiness, applicants must submit documentation that they are, or will be, ready to proceed with the activity upon award of funds, or as soon as possible after award. Applications able to clearly document the ability to meet the State contract's 90 day deadline to clear special conditions for proposed activities will receive the highest scores under this category. For example, having all appropriate local approvals and resolutions completed, having approved program guidelines for a housing rehabilitation program/project, or all financing commitments for a public improvement or public facility project already in place will be considered critical elements of readiness.

## Documentation and Scoring of Jurisdictional Capacity/Past Performance

This category will score the jurisdiction's overall ability to implement and manage the CDBG program at the jurisdictional level. Past performance, such as timeliness of submitting reports and clearing special conditions will be evaluated and scored. Applicants will be required to submit resumes and duty statements documenting staff capacity and experience for implementation of the CDBG program and eligible activities at the jurisdictional level. If the local jurisdiction uses or is planning on

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

---

using a consultant to assist them in implementing the program and/or a proposed activity, then copies of the consultant's staff's resumes and duty statements will be required. Contracts between the jurisdiction and the consultant will need to be submitted for Department review.

## State Objective Points

As noted above, in the 2012 NOFA, State Objective points will not be applicable. However, beginning with the 2013 NOFA, State Objectives may apply and will be announced in the State's Annual Plan and every five years in the Consolidated Plan.

## Planning and Technical Assistance

PTA applications will be ranked with a tie-breaker process only when the PTA allocation has been oversubscribed. The Department will use the tie-breaker process as defined in the NOFA. Currently and as in years past, the tie-breaker criterion is the jurisdiction's poverty score, and is discussed in detail below. The State mandated cash match for PTA grants will be announced in the NOFA each year, allowing the State to take current economic conditions at the jurisdictional level into account. For the 2012 NOFA the cash match will be set at 5% of the PTA amount awarded.

## Un-scored Set-Aside

If the Department so chooses, applications for Housing Assistance, Public Facilities, Public Improvements, Public Services and Enterprise Fund activities may request funding for an unrated eligible activity, up to the maximum specified in the NOFA, which shall be funded if at least one Housing Assistance, Public Facilities, Public Improvements, Public Service or Enterprise Fund activity is funded. For the 2012 NOFA the Un-scored set aside is available up to a maximum of \$100,000.

Note: An applicant may apply for either the PTA activity or the Un-scored Set-Aside activity, but not both.

## Tie-Breaker

As noted above, points will not be awarded for the PTA activity. However, in the event the activity is over-subscribed, a tie breaker process will be employed to determine ranking of the PTA applications and a final funding list. The tie breaker process is discussed in detail below.

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

*PTA Tie-Breaker Description*

In the event of over-subscription for the PTA activity, a tie breaker process will be used, and PTA applications will be ranked according to jurisdiction-wide poverty levels. This may occur for PTA applications that are the sole activity being applied for, or for PTA applications applied for as just one activity in a multi-activity application.

In the case of over-subscription of grant applications that seek only PTA funding, all applications will be ranked by jurisdiction-wide poverty levels (per the 2010 census), from highest to lowest, and will be funded in order of ranking, regardless of whether the jurisdiction seeks to fund planning activities under the Economic Development allocation, the Community Development allocation, or both. At the point where funding is exhausted in either the CD or ED allocation, remaining applications under the allocation that still has funds, will continue to be funded, in order, until that allocation is exhausted as well. At that point, the remaining PTA-only applications will not be funded.

In the case of grant applications that include the PTA activity as one of two or three activities, the PTA activity may still be put into a tie breaker process in the event of over-subscription, and will be funded in accordance with the process as described above.

The tie breaker process will be applied separately to the two types of PTA applications: PTAs applied for as the sole activity and PTAs as part of a multi-activity application. There is no guarantee that PTA activities will be funded, in whole or in part, regardless of being the sole activity or part of a multi-activity application.

In the event PTAs are not over-subscribed, any funds remaining in the overall PTA funding allocation will be rolled over to the ED and CD allocations in compliance with the State Statue of 30% ED and 70% going to the CD. The funds will thereafter be prorated into the activities in the same percentages as the overall demand for activity funding.

*Additional Information*

Additional details regarding scoring and documentation will be included in the NOFA Application.

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

***Application Process and Scoring for Economic Development Over-the-Counter  
(ED OTC)***

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ED OTC activities will be evaluated on a first come first served basis. Applications may apply for one or two annual funding awards. Applicants awarded two annual funding awards may not apply for ED OTC funds in the second year. Applications will be evaluated for compliance with HUD underwriting guidelines set forth as Appendix A to 24 CFR Part 570.

**The Project Pre-Screening**

The Department has found that early communications between the project stakeholders and Department staff on the project design and underwriting helps to make a stronger project and ensures that all parties (the jurisdiction, business/developer, and consultants) are aware of their responsibilities. Early involvement and communication also helps expedite the application process and ensures the applicant's ability to address issues that will likely be raised by the Economic Development Advisory Committee (EDAC), which is the Department's ED Loan Committee.

The pre-screening process starts with the jurisdiction and the business/developer filling out a "Talking Points" form provided in the ED OTC application package. Then, as needed, conference calls will take place with representatives of the jurisdiction, the business owner/developer and the Department, to assess and determine if the project appears to be a good match for OTC funding. During the call(s), the Department gives guidance on what information is needed for an initial proposal.

The Project Initial Proposal Form will contain basic information about the proposed project:

1. The history of the business(s) being underwritten with historic sales, financial and management capacity.
2. A description of the structure of each business and ownership of business and any other businesses the owners have an interest in.
3. A Sources and Uses form with all sources of financing needed for the project.
4. The total on the Sources and Uses will be backed up with documentation of

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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additional funding commitment when possible.

5. A job projection chart will be completed and a description of federal overlay compliance will be included.

The Project Initial Proposal Form is found within the OTC Application. This form allows the Department staff to evaluate the viability of the project, identify project issues, and communicate the OTC program parameters and requirements.

## **Project Proposal Meeting**

Upon receiving and reviewing the initial proposal, the Department will schedule a site visit or conference call with all parties to review the proposal and make comments. Attendees at the site meeting/conference call should include a representative of the applicant jurisdiction (including the underwriter), the developer and/or business owner receiving assistance, and the CDBG Economic Development staff. The private developer or business will be required to bring all pertinent project and financial information to this meeting. If the outcome of the meeting/call is that the project is deemed reasonable and eligible for CDBG funding, and project sponsors are willing to provide additional information for a complete application, then the Department will invite the jurisdiction to apply.

## **Invitation to Submit an Application**

When the Department has determined that the project is ready to move forward in the application process, the jurisdiction will be invited to submit a full application to the Department. An invitation to submit a full application is based on readiness factors, such as:

1. Market and financial feasibility of the project showing increased cash flow to cover all debt and job creation costs;
2. Full funding available for completion of the project activities;
3. Approval status of local regulatory agencies for the proposed project;
4. Ownership/control status of any real estate needed for the project;
5. Applicant staff financial underwriting and grant management capacity;

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

---

6. Public benefit eligibility via project creation/retention of jobs; and,
7. National objective eligibility via LOW-INCOME jobs created / retained or elimination or prevention of slums and blight.

**Application Submittal**

ED OTC applications are accepted on a continuous basis until all funds are awarded for the funding year. Upon receipt of an application, the Department will review the application under a four-stage process.

1. **Completeness**: The application will first be reviewed for completeness. Incomplete applications will be returned to the applicant within **thirty (30) days** of receipt, along with a written explanation of any deficiencies that must be corrected prior to resubmission.
2. **Threshold**: Upon passing the completeness process, the application will undergo a minimum-threshold test. If the application fails this test, it will be returned to the applicant with a written explanation of any deficiencies that must be corrected prior to resubmission. The threshold review is conducted according to criteria specified in State CDBG Regulations, Section 7062.1 (c) (4). The application must attain at least 50 of the 80 threshold points in order to be eligible to pass on to the third review stage. The factors are listed below:

FACTOR	MAXIMUM NUMBER OF POINTS
• Percent of countywide unemployment relative to the statewide average	25
• Ratio of CDBG funds per unit of public benefit: A maximum of \$35,000 per job created or retained; or	15
• \$350 per low-/moderate-income person served	
• Ratio of private funds to CDBG funds	15
• Quality of applicant's past performance of CDBG ED grants	15
• Percent of funds allocated to applicant's general administrative costs	10

DRAFT Substantial Amendment to the State of California's Community  
Development Block Grant (CDBG) Program 2011 Action Plan:  
Method of Distribution

<b>Total Points Possible: 80</b>
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1. Underwriting Review: Upon passing the threshold test, the application's financial underwriting will be reviewed using HUD underwriting guidelines. The evaluative factors used, which are specified in the State CDBG regulations, assess whether the following conditions or circumstances are present:
  - a. Project costs are reasonable;
  - b. All sources of project financing are committed;
  - c. To the extent practicable, CDBG funds are not substituted for non-federal financial support;
  - d. The project is financially feasible;
  - e. To the extent practicable, the return on the owner's equity investment will not be unreasonably high; and,
  - f. To the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.
2. CDBG Loan Committee: The final step is submission of the application to the CDBG Loan Committee at a public meeting held approximately **forty-five (45) days** from the receipt of a complete application.

This submission involves writing a summary report (staff report) of the project by CDBG staff, which recommends approval or denial of the application. In addition to the staff report, the applicant and/or business/developer makes a presentation to the EDAC on the project. The EDAC accepts, rejects or modifies the staff recommendation. The EDAC then votes on a funding recommendation to be provided to the Director of the Department who has final approval authority. The Director's funding decision is made **approximately sixty (60) days** from the receipt of a complete application.

***Maximum Activity Funding Amounts***

There are a number of federal and State requirements that limit or restrict CDBG funds going to particular activities. Once these limits have been addressed, the proportion of

# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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funding for each activity will be the same proportion of the total funding requested, thus the State will allocate funding to each activity category based on demand.

Once all scores are calculated, there will be separate ranked lists for each activity and separate funding allocations per activity. Funding will be awarded until the available funding for that activity is exhausted. If all statutory and regulatory limits are not satisfied at the line where allocated funds are exhausted, then the funding line would be moved as needed to satisfy the limits. For example, if the line resulted in Public Services being funded at 18% of total funding, one or more activities would not be funded until the federal requirement of 15% maximum was satisfied.

## ***Maximum Grant Funding Amounts***

Per California statute 50832 and CCR 7056, the activity funding maximums will be set in the NOFA each year and will be dependent upon available funding. As well, the NOFA will announce the maximum grant amount and as with the activity maximums, will be based on the available funding.

There will be a maximum of \$2,000,000 for PTA activities, and 15% for Public Services.

## ***Maximum Number of Activities***

Also new in 2012, the State will set the maximum number of activities that may be applied for to three (3) per NOFA, including Planning and Technical Assistance activities but excluding Economic Development Over-the-Counter, Native American and Colonia activities. Also, as one of the 3 activities an applicant may apply for, an Un-Scored Set-Aside activity will also be available. It must be a CDBG eligible activity and will only be funded if one of the applicant's other applied activities is funded.

## ***Eligibility Threshold***

Additionally, new in 2012, there are further changes to threshold and activity maximums. First, the State has switched to all threshold requirements needing to be met by the jurisdictions at time of application rather than performing a second threshold review just prior to funding.

All threshold items are now in State CDBG Regulations. Threshold now includes the requirements that the jurisdictions be in compliance with submissions of both their Housing Element and their OMB A-133 Single Audit. Further, the State relaxed the threshold regarding monitoring findings so that jurisdictions that are in the process of rectifying findings will still be eligible. Lastly, the State has implemented an expenditure requirement known as the "50% Rule" whereby jurisdictions with open contracts must



# DRAFT Substantial Amendment to the State of California's Community Development Block Grant (CDBG) Program 2011 Action Plan: Method of Distribution

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expend 50% of the aggregate total funding across those contract before being eligible for additional funding. The 50% Rule will apply only to Community Development and Economic Development Enterprise fund activity contracts, and will begin with the 2013 NOFA cycle, with the aggregate contract calculation being applied only to open contracts signed in 2012 and later.

## ***Amendment Process***

A jurisdiction may request a budget or contract amendment. These will all be reviewed on a case by case basis and must be necessarily justifiable as well as in compliance with all laws and regulations governing California's CDBG program. The jurisdiction must submit, in writing, a request for amendment to their HCD Representative. The Representative will review the request and make a recommendation to the Program Manager and the Section Chief for approval, negotiation, or denial.

## ***Beneficiaries***

In addition to the federal requirement that 70% of all CDBG funds be spent over not more than a three year period on activities that benefit persons of low and moderate income, as well as federal requirement for Public Benefit in Economic Development activities, California statute requires that not less than 51% of the State's CDBG allocation be spent on purposes directly related to improving housing opportunities, including infrastructure, for persons and families of low or moderate income.

## ***Program Income***

During 2011-12, the State anticipates CDBG-eligible jurisdictions will receive program income of approximately \$8,500,000. Most of these funds will be obligated in accordance with approved local Program Income Reuse Plans. At least 40 percent of program income is typically expended through housing rehabilitation, housing acquisition/homeownership assistance, economic development assistance to businesses, and micro-enterprise revolving loan accounts. Some is expended through other activities in open CDBG grants.

As of July 1<sup>st</sup> 2011, the State has implemented a new Program Income reporting structure that requires that jurisdictions report Program Income semi-annually.

Further, the State has developed a Waiver Process whereby jurisdictions may apply to use Program Income from their RLAs for projects and programs outside of an open contract. Jurisdictions wishing to make this application will need to contact their HCD Representative to discuss this option.